

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Frank Montgoris	Team: Squad #12	CCRB Case #: 201703320	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 10/11/2015 8:25 PM	Location of Incident: 1173 East 229th Drive North; 1183 Schieffelin Avenue; 47th Precinct stationhouse	Precinct: 47	18 Mo. SOL 4/11/2017	EO SOL 4/11/2017	
Date/Time CV Reported Thu, 04/27/2017 7:45 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 04/27/2017 7:45 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Alfredo Valentin	29252	934232	047 PCT
2. POM David Sammarco	21076	937471	047 DET
3. Officers			Unknown
4. POM Matthew Palmerini	10321	942320	047 PCT
5. DTS Daniel Ohanlon	05995	918089	ESS 03
6. An officer			Unknown
7. POM Alejandro Polanco-Ortiz	26948	948264	047 PCT
8. DTS Carlos Linares	05515	922650	ESS 03

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jason Miranda	31588	953112	PSA 8
2. POM Johnny Jimenez	06982	952896	NARCBMN
3. POM Hector Camacho	08413	951583	PSA 8
4. POM Timothy Ryan	28504	939397	PSA 9
5. POM Harris Jean	09296	957712	047 PCT
6. POM Carlos Montoya	08425	957868	047 PCT
7. POM Kelvin Guillen	01542	952815	047 PCT
8. POM Emmanuel Deleon	30828	952654	047 PCT
9. POM Nicolas Dominguez	27087	948202	047 PCT
10. LT Joseph Orecchio	00000	933124	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM David Sammarco	Abuse: In front of 1173 East 229th Drive North, in the Bronx, Police Officer David Sammarco stopped the vehicle in which § 87(2)(b) and an individual were occupants.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
B.POM Matthew Palmerini	Abuse: In front of 1173 East 229th Drive North, in the Bronx, Police Officer Matthew Palmerini stopped the vehicle in which § 87(2)(b) and an individual were occupants.	
C.POM Matthew Palmerini	Abuse: In front of 1173 East 229th Drive North, in the Bronx, Police Officer Matthew Palmerini frisked an individual.	
D.POM Alfredo Valentin	Abuse: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alfredo Valentin stopped § 87(2)(b)	
E.POM Alejandro Polanco-Ortiz	Abuse: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alejandro Polanco-Ortiz stopped § 87(2)(b)	
F.POM Alfredo Valentin	Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alfredo Valentin used physical force against § 87(2)(b)	
G.POM Alejandro Polanco-Ortiz	Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alejandro Polanco-Ortiz used physical force against § 87(2)(b)	
H.POM David Sammarco	Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer David Sammarco used physical force against § 87(2)(b)	
I.POM Alfredo Valentin	Discourtesy: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alfredo Valentin spoke discourteously to § 87(2)(b)	
J.POM Alejandro Polanco-Ortiz	Discourtesy: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alejandro Polanco-Ortiz spoke discourteously to § 87(2)(b)	
K.POM Alfredo Valentin	Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alfredo Valentin hog-tied § 87(2)(b)	
L.POM Alejandro Polanco-Ortiz	Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alejandro Polanco-Ortiz hog-tied § 87(2)(b)	
M. Officers	Discourtesy: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, officers spoke discourteously to § 87(2)(b)	
N. Officers	Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, officers struck § 87(2)(b) with radios.	
O. An officer	Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, an officer struck § 87(2)(b) with a blunt instrument.	
P. An officer	Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, an officer used a chokehold against § 87(2)(b)	
Q. An officer	Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, an officer restricted § 87(2)(b)'s breathing.	
R. An officer	Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, an officer cut § 87(2)(b) with a razor blade.	

Officer(s)	Allegation	Investigator Recommendation
S.DTS Daniel Ohanlon	Force: At the 47th Precinct stationhouse, Detective Daniel O'Hanlon used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
T.DTS Carlos Linares	Force: At the 47th Precinct stationhouse, Detective Carlos Linares used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
U. Officers	Force: At the 47th Precinct stationhouse, officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
V. Officers	Discourtesy: At the 47th Precinct stationhouse, officers spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via the online website on April 27, 2017, 18 months after the date of the incident. However, due to the extent of § 87(2)(b)'s injuries, this case was investigated by the CCRB.

On October 11, 2015, at approximately 8:25 p.m., PO David Sammarco and PO Matthew Palmerini, of the 47th Precinct, stopped the vehicle in which § 87(2)(b) and an unidentified individual were occupants in front of 1173 East 229th Street, in the Bronx, for either an expired temporary license plate or an odor of marijuana from the vehicle, according to the officers (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). PO Palmerini frisked the unidentified individual (**Allegation C: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) drove off during the stop and crashed the vehicle at East 229th Street and Schieffelin Avenue, in the Bronx. He then fled the scene of the crash.

At approximately 9:00 p.m. the same night, PO Alfredo Valentin and PO Alejandro Polanco-Ortiz, of the 47th Precinct, stopped § 87(2)(b) in the vicinity of 1183 Schieffelin Avenue, in the Bronx, according to a radio run put out by PO Sammarco (**Allegation D: Abuse of Authority**, § 87(2)(g); **Allegation E: Abuse of Authority**, § 87(2)(g)). PO Valentin, PO Polanco-Ortiz, and PO Sammarco used physical force against § 87(2)(b) (**Allegation F: Force**, § 87(2)(g); **Allegation G: Force**, § 87(2)(g); **Allegation H: Force**, § 87(2)(g)). PO Valentin and PO Polanco-Ortiz allegedly spoke discourteously towards § 87(2)(b) (**Allegation I: Discourtesy**, § 87(2)(g); **Allegation J: Discourtesy**, § 87(2)(g)). PO Valentin and PO Polanco-Ortiz allegedly hog-tied § 87(2)(b) (**Allegation K: Force**, § 87(2)(g); **Allegation L: Force**, § 87(2)(g)). Officers allegedly spoke discourteously towards § 87(2)(b) and allegedly struck § 87(2)(b) with their radios, and an officer allegedly cut § 87(2)(b) with a razor blade, allegedly used a chokehold against § 87(2)(b) and allegedly restricted his breathing (**Allegation M: Discourtesy**, § 87(2)(g); **Allegations N, O, P, Q, and R: Force**, § 87(2)(g)). § 87(2)(b) was arrested as a result of this incident and charged with assault on a police officer, reckless endangerment, aggravated unlicensed operator of a motor vehicle, and resisting arrest.

At the 47th Precinct stationhouse, at approximately 9:30 p.m., Det. Daniel O'Hanlon and Det. Carlos Linares, from Emergency Service Squad 3, used physical force against § 87(2)(b) (**Allegations S and T: Force**, § 87(2)(g)). Officers allegedly used physical force against § 87(2)(b) and allegedly spoke discourteously towards § 87(2)(b) (**Allegation U: Force**, § 87(2)(g); **Allegation V: Discourtesy**, § 87(2)(g)). § 87(2)(b) reported that he sustained a laceration to his right wrist and lip, bruises to his left eye, nerve damage to his spine, and damage to the retina in his left eye as a result of this incident.

Despite police records documenting him as driving and subsequently crashing a vehicle, § 87(2)(b) denied driving a vehicle during the incident, only alleging that he was stopped while walking. Video footage from the NYCHA Edenwald Houses was obtained, but did not capture this incident.

§ 87(2)(b)'s criminal proceedings for this arrest extended to a full criminal trial. Therefore, this case was placed on DA hold for over one month until December 26, 2017.

Findings and Recommendations

Allegation A – Abuse of Authority: In front of 1173 East 229th Drive North, in the Bronx, Police Officer David Sammarco stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation B - Abuse of Authority: In front of 1173 East 229th Drive North, in the Bronx, Police Officer Matthew Palmerini stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

During his in-person statement, § 87(2)(b) who is a § 87(2)(b), denied being in a vehicle prior to or during any police interactions, and therefore did not provide any testimony for these allegations or identify the passenger of the vehicle. § 87(2)(b) further denied drinking alcohol prior to the incident or being intoxicated or under the influence at the time of this incident (Board Review 01).

PO Sammarco testified that he and PO Palmerini were parked in front of the 47th Precinct stationhouse, with the windows of the police vehicle rolled down, when he smelled marijuana in the air and observed smoke coming from a vehicle that was stopped at a red light immediately in front of him. The unidentified passenger of the vehicle looked over at the officers, stated, “Oh, shit. It’s the boys,” and § 87(2)(b) the driver, drove off upon the light turning green. PO Sammarco made the decision to stop the vehicle because of the odor of marijuana and his simultaneous observation of smoke coming from the vehicle (Board Review 02).

PO Palmerini stated that the unidentified passenger of the vehicle looked over at the officers and told § 87(2)(b) “Oh, shit. The police,” and that § 87(2)(b) then drove off. As they were driving off, PO Palmerini observed a temporary license plate on the back of the vehicle with an expired expiration date. He and PO Sammarco subsequently stopped the vehicle. PO Palmerini did not make any mention of a scent of marijuana or observation of smoke emanating from the vehicle (Board Review 03).

The criminal court complaint, signed by PO Sammarco, indicated that § 87(2)(b) was driving with a temporary license plate that had expired on July 5, 2015, and that officers then attempted to pull § 87(2)(b) over. The complaint does not make any mention of an observation or scent of marijuana (Board Review 04).

The investigation obtained the minutes of PO Sammarco’s testimony from § 87(2)(b) s criminal hearing from § 87(2)(b). PO Sammarco corroborated his CCRB statement, testifying that he stopped the vehicle because he smelled marijuana in the air at the time he observed smoke coming from the vehicle that § 87(2)(b) was driving. Also, PO Sammarco identified § 87(2)(b) to be the driver of the vehicle. The minutes from the court hearing on § 87(2)(b) show that the ripped up license plate found at the time of § 87(2)(b) s arrest on his person and acknowledged by § 87(2)(b) s defense, was suppressed as evidence in court (Board Review 05).

The property voucher from § 87(2)(b) s arrest shows that § 87(2)(b) was found with three ripped pieces of a temporary license plate in his pocket at the time of his apprehension (Board Review 07).

The intoxicated driver examination report, filled out by PO Sammarco, noted that PO Sammarco smelled alcohol on § 87(2)(b) s breath at the time of the incident, and that PO Sammarco believed § 87(2)(b) to be intoxicated at the time of the incident. Also, the IDTU technician test report, filled out by PO Kevin Outlaw of the Highway Unit, documented a blood test taken at § 87(2)(b) and concluded that § 87(2)(b) was intoxicated (Board Reviews 08 and 09).

§ 87(2)(b) who called 911 on the night of the incident, provided a phone statement to the CCRB. She stated that she was inside of her mother's apartment, located on the § 87(2)(b), in the Bronx, when she observed a vehicle make a quick right turn, causing the vehicle to flip multiple times, over another car, and land on the sidewalk. She observed a Hispanic male with a fair complexion, who appeared to have a slender build, exit the vehicle and run away, appearing to be "banged up" because he was not running quickly. The male individual then returned to the vehicle, removed something from the trunk and under the front seat, and then left again (Board Review 06).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority: In front of 1173 East 229th Drive North, in the Bronx, Police Officer Matthew Palmerini frisked § 87(2)(b).

§ 87(2)(b) denied being in the vehicle, and therefore did not provide the identity of the passenger of the vehicle that was stopped by officers. Also, neither PO Sammarco nor PO Palmerini obtained the name or any contact information for this individual, as acknowledged in their CCRB statements, before § 87(2)(b) fled. Last, none of the police documentation generated for this incident provided any identifying information for the passenger of the stopped vehicle. Therefore, the investigation could not obtain a statement from this individual (Board Reviews 01, 02, and 03; See IAs).

PO Palmerini testified that he and PO Sammarco attempted to pull the vehicle over for approximately one minute with their emergency lights, but § 87(2)(b) passed several places before finally pulling over. Upon exiting the police vehicle, PO Palmerini observed § 87(2)(b) reach underneath his driver's seat, but did not see an object in § 87(2)(b)'s hand. PO Sammarco spoke with PO Palmerini and confirmed that he also saw § 87(2)(b)'s action. PO Palmerini also observed the unidentified passenger moving his body side to side and looking back at the officers. PO Palmerini immediately told the unidentified passenger to step out of the vehicle, and patted down his waistband and jacket because of the passenger's initial statement of, "Oh, shit. It's the police," his movements in the vehicle, the expired plate, and the delay in § 87(2)(b) pulling over. PO Palmerini noted that the passenger had small bulges in the pockets of his jacket, but PO Palmerini did not

know what the items were causing the bulges. PO Palmerini denied any additional factors leading to the frisk (Board Review 03).

PO Sammarco testified that while approaching the vehicle, he observed § 87(2)(b) holding a black firearm in a black holster in his right hand, which he then placed underneath the driver's seat. PO Sammarco told PO Palmerini, "Gun. Gun." He observed PO Palmerini remove the unidentified passenger from the car and frisk him, and then take him to the rear of the vehicle (Board Review 02).

An officer may frisk § 87(2)(b) when he reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed. People v. DeBour, 40 N.Y.2d 210; 352 N.E. 2d 562 (1976) (Board Review 26).

§ 87(2)(g)

Allegation D – Abuse of Authority: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alfredo Valentin stopped § 87(2)(b)

Allegation E – Abuse of Authority: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alejandro Polanco-Ortiz stopped § 87(2)(b)

Allegation F – Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alfredo Valentin used physical force against § 87(2)(b)

Allegation G – Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alejandro Polanco-Ortiz used physical force against § 87(2)(b)

Allegation H – Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer David Sammarco used physical force against § 87(2)(b)

Allegation I – Discourtesy: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alfredo Valentin spoke discourteously to § 87(2)(b)

Allegation J – Discourtesy: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alejandro Polanco-Ortiz spoke discourteously to § 87(2)(b)

Allegation K – Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alfredo Valentin hog-tied § 87(2)(b)

Allegation L – Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, Police Officer Alejandro Polanco-Ortiz hog-tied § 87(2)(b)

§ 87(2)(b) alleged that he was walking on Schieffelin Avenue, in the Bronx, after purchasing soda from a nearby gas station, when he was stopped by PO Valentin and PO Polanco-Ortiz. They asked him where he was going, and § 87(2)(b) sarcastically explained that he was coming from the store. One of the officers then punched § 87(2)(b) in his right eye, and § 87(2)(b) responded by punching the other officer as a "reaction." One of the officers then told § 87(2)(b) "You got some balls trying to hit a cop." Both officers punched § 87(2)(b) took him to the ground, and told him to "shut the fuck up" after § 87(2)(b) asked what was going on. He was punched for 15 to 20 seconds, and was punched "way more than five times." § 87(2)(b) denied punching or striking any officer after his initial punch. PO Valentin

and PO Polanco-Ortiz handcuffed § 87(2)(b) s wrists and ankles, and then handcuffed the two sets of handcuffs together to hog-tie him (Board Review 01).

On June 20, 2017, Det. Ivan McFarlane of the IAB/CCRB Liaison Unit confirmed that PO Valentin retired from the NYPD on May 20, 2017. He further confirmed that PO Polanco-Ortiz resigned from the NYPD, and that both officers were no longer members of service (See IAs).

PO Sammarco alleged that § 87(2)(b) fled in the vehicle from the location of the vehicle stop, striking PO Sammarco and the officers' vehicle in the process. PO Sammarco put over a description of the vehicle and of § 87(2)(b) describing him as a dark-skinned Hispanic male wearing all black. PO Sammarco was then informed over the radio that the vehicle had crashed at East 229th Street and Schieffelin Avenue, and that § 87(2)(b) had fled from the crash site. PO Sammarco put over the description of § 87(2)(b) a second time, and approximately five to ten minutes later, a call came over from either PO Valentin or PO Polanco-Ortiz that they had someone stopped fitting the description at 1183 Schieffelin Avenue. PO Sammarco went to the location, and, immediately upon arriving, observed PO Valentin and PO Polanco-Ortiz actively fighting with § 87(2)(b) with all three individuals on the ground and "rolling around." § 87(2)(b) was punching, kicking, and spitting at the officers. PO Sammarco physically assisted the officers, and acknowledged punching § 87(2)(b) in the chest and face. PO Sammarco did not recall how many times he struck § 87(2)(b) but noted that he did so because it was a fight and § 87(2)(b) was actively resisting, and that the punches were a tactic learned in training to subdue him to affect the arrest. PO Valentin and PO Polanco-Ortiz threw punches as well, but PO Sammarco did not know how many times they struck § 87(2)(b). PO Sammarco denied that either PO Valentin or PO Polanco-Ortiz spoke discourteously towards § 87(2)(b) and denied that § 87(2)(b) was hog-tied (Board Review 02).

PO Palmerini denied that he was present at the apprehension site, noting that he remained at the site of the vehicle accident. Therefore, he did not have any testimony regarding these allegations (Board Review 03).

§ 87(2)(b) s arrest report indicated that he punched, kicked, and spat on multiple officers while attempting to be apprehended (Board Review 11).

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

An officer may use reasonable force to take a lawfully arrested person into custody, or to prevent one's escape from custody. Some factors to consider in determining when to use force are the actions taken by the subject, and whether the subject is actively resisting custody. NYPD Patrol Guide, Procedure 221-01 (Board Review 10).

§ 87(2)(g)

Allegation M – Discourtesy: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, officers spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that, after he was taken to the police vehicle, multiple officers told him, "Shut the fuck up," "Let me get this motherfucker," "Let me fuck this motherfucker up," "Who the fuck do you think you are," "You got some motherfucking balls," "I'll fucking kill you," "I'll kill you, motherfucker," "I'ma kill you," and, "You spit on me, motherfucker?" § 87(2)(b) was unable to describe any of the officers, only noting that these officers were not PO Valentin and PO Polanco-Ortiz, the two officers who initially stopped him on foot (Board Review 01).

PO Sammarco denied saying any of the alleged phrases, and denied using any profanity towards § 87(2)(b). He further denied that any other officer on scene used any profanity towards § 87(2)(b). PO Sammarco was unable to recall any additional officers present aside from PO Valentin and PO Polanco-Ortiz (Board Review 02).

PO Palmerini denied that he was present at the apprehension site, noting that he remained at the site of the vehicle accident. Therefore, he did not have any testimony regarding these allegations (Board Review 03).

PO Nicolas Dominguez and Lieutenant Joseph Orecchio, both of the 47th Precinct who were documented as arriving via the ICAD, were interviewed by the CCRB, but PO Dominguez and Lieutenant Orecchio had no independent recollection of the incident. PO Jason Miranda, of PSA 8 and also documented as arriving via the ICAD, denied using any profanity and denied hearing another officer do so, and could not recall any other officers that arrived on scene (Board Reviews 12, 13, 14, and 15).

§ 87(2)(g)

§ 87(2)(g)

Allegation N – Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, officers struck § 87(2)(b) with radios.

Allegation O – Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, an officer struck § 87(2)(b) with a blunt instrument.

Allegation P – Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, an officer used a chokehold against § 87(2)(b)

Allegation Q – Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, an officer restricted § 87(2)(b)'s breathing.

Allegation R – Force: In the vicinity of 1183 Schieffelin Avenue, in the Bronx, an officer cut § 87(2)(b) with a razor blade.

§ 87(2)(b) alleged that, after being hog-tied and brought to the police vehicle, multiple officers struck him with their radios in his face, head, neck, shoulders, and back. He specified that he was struck more than ten times. An officer then held his handcuffs similar to how someone would hold a pair of brass knuckles, and struck § 87(2)(b) with them more than once in his face and neck. A different officer then wrapped his hand around § 87(2)(b)'s throat and squeezed, restricting his breathing. § 87(2)(b) could not estimate how long this officer did this, noting that he began to lose consciousness as a result. The officer then let go, and a different officer intentionally cut § 87(2)(b)'s right wrist with a razor blade, resulting in § 87(2)(b) sustaining a laceration on his right wrist. § 87(2)(b) further alleged that he sustained bruises on his face and body as a result of the force used against him. § 87(2)(b) and his civil attorney, § 87(2)(b), provided the CCRB with a photo of a laceration to § 87(2)(b)'s right wrist, which § 87(2)(b) attributed to being cut with the razor blade (Board Reviews 01 and 17).

§ 87(2)(b) during her phone statement to the CCRB, detailed that the vehicle accident she observed involved a motorist who took a turn too fast and flipped over a parked car before crashing onto the sidewalk (Board Review 02).

PO Sammarco denied partaking in or observing any physical struggle with § 87(2)(b) inside of a police vehicle on scene. He denied striking § 87(2)(b) with his radio, his handcuffs, or ever cutting him with a razor blade. PO Sammarco further denied using a chokehold against § 87(2)(b) or restricting his breathing. PO Sammarco denied that any other officer used any of the above-mentioned force on § 87(2)(b). PO Miranda denied striking § 87(2)(b) with his radio or handcuffs, denied using a chokehold against § 87(2)(b), denied restricting his breathing, and denied cutting § 87(2)(b) with a razor. PO Miranda denied seeing any other officer take these actions. Lieutenant Orecchio, who did not have an independent recollection of this incident, denied using any physical force against § 87(2)(b) or observing another officer do so (Board Reviews 02, 13, and 14).

PO Palmerini denied that he was present at the apprehension site, noting that he remained at the site of the vehicle accident. Therefore, he did not have any testimony regarding these allegations. Both PO Dominguez and Lieutenant Kenny, who were interviewed by the CCRB, denied being present during the incident (Board Reviews 03, 12 and 15).

Multiple photos provided by § 87(2)(b) during § 87(2)(b)'s in-person statement show a dark-colored Nissan Altima with multiple cracks in the front windshield, the trunk detached from the rest of the vehicle, and the front driver's side airbags deployed (Board Review 18).

§ 87(2)(b)'s arrest photograph displayed significant swelling to his left eye and an apparent marking over his left eyebrow, but did not display any other visible injuries to his face or head (Board Review 16).

§ 87(2)(b)'s medical records, which were obtained by the CCRB from § 87(2)(b), indicated that § 87(2)(b) who was treated at § 87(2)(b) the same night of the incident, was diagnosed with a contusion to his forehead, nose, and eyelid, as well as an abrasion to the back of his head. He did not sustain any fractures. § 87(2)(b)'s full medical documentation could not be obtained by the CCRB because § 87(2)(b) refused to allow § 87(2)(b) sign HIPAA forms (See Privileged Documents; See IAs).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation S – Force: At the 47th Precinct stationhouse, Detective Daniel O’Hanlon used physical force against § 87(2)(b)

Allegation T – Force: At the 47th Precinct stationhouse, Detective Carlos Linares used physical force against § 87(2)(b)

Allegation U – Force: At the 47th Precinct stationhouse, officers used physical force against § 87(2)(b)

Allegation V – Discourtesy: At the 47th Precinct stationhouse, officers spoke discourteously to § 87(2)(b)

It is undisputed that ESU was called for § 87(2)(b) at the 47th Precinct stationhouse. It is also undisputed that force was used against § 87(2)(b) inside of the holding cell, and that he was placed in a restraint bag prior to being removed at the hospital.

§ 87(2)(b) alleged that, while in the holding cell, approximately ten officers opened the cell door and rushed into the cell, throwing what appeared to be a mosquito net onto § 87(2)(b) and taking him to the ground. He denied physically resisting the officers when being taken to the ground. Once on the ground, multiple officers punched § 87(2)(b) in his face and the back of his head five or less times. Multiple officers told § 87(2)(b) “Don’t fucking move,” while punching him, but § 87(2)(b) denied moving or resisting the officers. § 87(2)(b) was unable to describe the officers who punched him or used profanity towards him (Board Review 01).

§ 87(2)(b) the only prisoner that would have been present during § 87(2)(b)’s initial lodging in the holding cells, according to the prisoner holding pen roster, was unavailable to the investigation (Board Review 22; See IAs).

The ESU Report for this incident, generated by Det. O’Hanlon, noted that two members of Squad 3 responded to the 47th Precinct stationhouse in response to an emotionally disturbed person (EDP) who was violent and spitting. The report further describes that the ESU officers entered the cell, covered § 87(2)(b)’s mouth, and then placed him in a restraint bag. § 87(2)(b) was then brought to the hospital (Board Review 19).

Det. O’Hanlon did not have an independent recollection of this incident, and solely provided testimony based on the ESU Report that he had generated for this incident. He stated that § 87(2)(b) would not willingly go into the restraint bag, and that he had to “guide” § 87(2)(b) into the bag. However, Det. O’Hanlon could not specify this action any further. He denied punching § 87(2)(b) and denied observing another officer do so. Det. O’Hanlon denied telling § 87(2)(b) “Don’t fucking move,” and denied using any profanity towards § 87(2)(b) during the incident. He denied hearing any other officer use any profanity towards § 87(2)(b). Det. O’Hanlon noted that, while prisoners are generally placed in a restraint bag by four members of service, he did not believe anyone else assisted him and Det. Linares because he did not note it in the ESU Report (Board Review 20).

Det. Linares, who did not have an independent recollection of this incident, did not recall whether he took § 87(2)(b) to the ground or told him, “Don’t fucking move.” Det. Linares denied punching § 87(2)(b) and did not remember the incident enough to confirm or deny whether any other officers assisted him and Det. O’Hanlon apprehend § 87(2)(b) (Board Review 21).

PO Sammarco, PO Palmerini, PO Dominguez, and Lieutenant Orecchio all denied seeing § 87(2)(b) inside of the stationhouse after returning from the hospital, and denied seeing any physical struggle take place inside of the holding cell. PO Miranda, who was assigned to PSA 8, denied going to the 47th Precinct stationhouse on the night of the incident and could not provide testimony to these allegations. Lieutenant Kenny was assigned to a counterterrorism assignment and worked in Manhattan on the night of the incident, and therefore also could not provide testimony to these allegations (Board Reviews 02, 03, 12, 13, 14, and 15).

An officer may use reasonable force to take a lawfully arrested person into custody, or to prevent one’s escape from custody. Some factors to consider in determining when to use force are the actions taken by the subject, and whether the subject is actively resisting custody. NYPD Patrol Guide, Procedure 221-01 (Board Review 10).

§ 87(2)(g)

§ 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b)
- § 87(2)(b), § 87(2)(a) 160.50
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming assault, bodily injuries, false arrest, false imprisonment, malicious prosecution, but does not specify the amount in which he is seeking as redress. A 50H hearing was initially scheduled for March 21, 2016, but there is no record of the hearing taking place, and no further update on the claim, according to the Law Department (Board Review 24).

Civilian and Subject Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 25).
- PO Sammarco has been a member-of-service for 13 years, and has been a subject in 19 CCRB complaints and 50 allegations, of which three were substantiated:

- CCRB case 201407703 involved two substantiated discourtesy allegations and a substantiated offensive language allegation against PO Sammarco. The Board recommended command discipline “B” and the NYPD has not yet imposed discipline.
- § 87(2)(g) [REDACTED]
- PO Palmerini has been a member-of-service for 11 years, and has been a subject in three CCRB complaints and ten allegations, none of which have been substantiated. [REDACTED]
§ 87(2)(g) [REDACTED]
- Det. O’Hanlon has been a member-of-service for 21 years, and has been a subject in five CCRB complaints and eight allegations, of which two were substantiated:
 - CCRB case 201501992 involved a substantiated search allegation and a substantiated discourtesy allegation against Det. O’Hanlon. The Board recommended command discipline “A” for the search allegation, and the NYPD imposed instructions. The Board recommended command level instructions for the discourtesy allegation, and the NYPD has not yet imposed discipline.
 - § 87(2)(g) [REDACTED]
- Det. Linares has been a member-of-service for 19 years, and has been a subject in three CCRB complaints and four allegations, of which one was substantiated:
 - CCRB case 201501992 involved one substantiated search allegation against Det. Linares. The Board recommended command discipline “B,” and the NYPD imposed formalized training.
 - § 87(2)(g) [REDACTED]

Squad No.: 12

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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